

**DIKE, BRONSTEIN, ROBERTS & CUSHMAN, LLP**  
**Intellectual Property Practice Group of EDWARDS & ANGELL, LLP**  
**130 Water Street**  
**Boston, Massachusetts 02109**

### DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that: My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed at 201) below or an original, first and joint inventor (if plural names are listed at 201-208 below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

DIAGNOSTIC TESTING DEVICE AND METHOD OF USE THEREOF

which is described and claimed in:

- ☒ the specification attached hereto.
- ☐ the specification in U.S. Application Serial Number \_\_\_\_\_, filed on \_\_\_\_\_.
- ☐ the specification in PCT international application Number \_\_\_\_\_, filed on \_\_\_\_\_; and was amended on \_\_\_\_\_.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a). I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

Prior Foreign/PCT Applications and Any Priority Claims Under 35 U.S.C. §119:			
Application No.	Filing Date	Country	Priority Claimed Under 35 U.S.C. §119?
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

I hereby claim the benefit under 35 U.S.C. §120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below, and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose material information as defined in 37 CFR §1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

<b>Prior U.S. Applications or PCT International Applications Designating the U.S-Benefit Under 35 U.S.C. §120</b>					
<b>U.S. Applications</b>			<b>Status (Check One)</b>		
<b>Application Serial No.</b>	<b>U.S. Filing Date</b>		<b>Patented</b>	<b>Pending</b>	<b>Abandoned</b>
<b>PCT Applications Designating the U.S.</b>					
<b>Application No.</b>	<b>Filing Date</b>	<b>U.S. Serial No. Assigned</b>			

**CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)  
(35 U.S.C. §119(e))**

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below:

Applicant	Provisional Application Number	Filing Date

**POWER OF ATTORNEY:** As a named inventor, I hereby appoint the following attorney(s) with full powers of association, substitution and revocation to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Sewall P. Bronstein (Reg. No. 16,919)  
David G. Conlin (Reg. No. 27,026)  
George W. Neuner (Reg. No. 26,964)  
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Peter J. Manus (Reg. No. 26,766)

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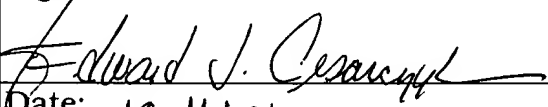
Christine C. O'Day (Reg. No. 38,256)  
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201	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME
		Cesarczyk	Edward	J.
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
		NORTH EASTON	MA	U.S.A.
	POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE OR COUNTRY AND ZIP CODE
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202	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
	POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE OR COUNTRY AND ZIP CODE

I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature of Inventor <b>201</b> 	Signature of Inventor <b>202</b>  
Date: 18 JAN 01	Date:

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

☒ In re application of: E. Cesarczyk      ☐ Patentee:  
☐ Serial No.:      ☐ Patent No.:  
☒ Filed: Herewith      ☐ Issued on:

Title: DIAGNOSTIC TESTING DEVICE AND METHOD OF USE THEREOF

**STATEMENT CLAIMING SMALL ENTITY STATUS  
(37 CFR 1.9(f) and 1.27(b))--SMALL BUSINESS CONCERN**

I hereby state that I am

☐ the owner of the small business concern identified below:  
☒ an official of the small business concern empowered to act  
on behalf of the concern identified below:

Name of Small Business Concern AVITAR, INC

Address of Small Business Concern 65 Dan Road, Canton, Massachusetts 02021

I hereby state that the above identified small business concern qualifies as a small business concern, as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office under Sections 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third-party or parties controls or has the power to control both.

I hereby state that rights under contract or law have been conveyed to, and remain with, the small business concern identified above, with regard to the invention described in

☐ the specification filed herewith, with title as listed above.  
☒ the application identified above.  
☐ the patent identified above.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights in the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c), if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

*NOTE: Separate statements are required from each named person, concern or organization having rights to the invention as to their status as small entities. (37 CFR 1.27)*

Each such person, concern or organization having any rights in the invention is listed below:

- ☒ No such person, concern, or organization exists.  
☐ Each such person, concern or organization is listed below.

Name \_\_\_\_\_

Address \_\_\_\_\_

☐ INDIVIDUAL      ☐ SMALL BUSINESS CONCERN      ☐ NONPROFIT ORGANIZATION

Name \_\_\_\_\_

Address \_\_\_\_\_

☐ INDIVIDUAL      ☐ SMALL BUSINESS CONCERN      ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small business entity is no longer appropriate. (37 CFR 1.28(b))

(check the following item, if desired)

NOTE: The following verification statement need not be made in accordance with the rules published on October 10, 1997, 62 Fed. Reg. 52131, effective December 1, 1997.

NOTE: "The presentation to the Office (whether by signing, filing, submitting, or later advocating) of any paper by a party, whether a practitioner or non-practitioner, constitutes a certification under § 10.18(b) of this chapter. Violations of § 10.18(b)(2) of this chapter by a party, whether a practitioner or non-practitioner, may result in the imposition of sanctions under § 10.18(c) of this chapter. Any practitioner violating § 10.18(b) may also be subject to disciplinary action. See §§ 10.18(d) and 10.23(c)(15)." 37 CFR 1.4(d)(2).

- ☒ I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Name of Person Signing DOUGLAS W. SCOTT

Title of Person if Other Than Owner PRESIDENT

Address of Person Signing 6 CONRICK LANE  
DOVER, MA 02030

  
SIGNATURE

Date 1/18/01